

HAROLD M. JAFFE, ESQ. (CASB #57397)
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Attorney for Defendants JOHN SRAMEK and BERNADETTE SRAMEK, individually and as Trustees of the John S. Sramek, Jr. and Bernadette D. Sramek Revocable Living Trust and Harold M. Jaffe, In Pro Per

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

ALISE MALIKYAR, ROBERT JACOBSEN CASE NO. C07-03533 WHA

Plaintiffs,

VS.

JOHN SRAMEK, BERNADETTE SRAMEK,
HAROLD M. JAFFE, John S. Sramek, Jr. and
Bernadette D. Sramek Revocable Living Trust,
and DOES 1 - 100.

Defendants.

**NOTICE OF MOTION AND MOTION TO
DISMISS FOR FAILURE TO STATE A
CLAIM UPON WHICH RELIEF CAN BE
GRANTED [FRCP 12(b)(6)]; OR IN THE
ALTERNATIVE, A MOTION FOR
SUMMARY JUDGMENT [FRCP 56]**

DATE: March 13, 2008
TIME: 8:00 a.m.
CTRM: 9 - Hon. William Alsup

TO PLAINTIFFS IN PRO PER AND ALL OTHER INTERESTED PARTIES:

18 PLEASE TAKE NOTICE that on March 13, 2008, at 8:00 a.m., in Courtroom 9 of this
19 Court located at 450 Golden Gate Avenue, San Francisco, CA 94102-3483, defendants, John
20 Sramek, Bernadette Sramek, John S. Sramek, Jr. and Bernadette D. Sramek Revocable Living Trust,
21 and Harold M. Jaffe, will move this Court to dismiss this action pursuant to FRCP 12(b)(6) because
22 plaintiffs' Second Amended Complaint fails to state a claim upon which relief can be granted, on
23 the grounds that neither named plaintiff is the real party in interest. In the alternative, defendants
24 will request that the Court grant summary judgment pursuant to FRCP 56.

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The motion will be based on this Notice, the Memorandum of Points and Authorities, Request for Judicial Notice, filed and served herewith, the papers and records on file in this action, and on such oral and documentary evidence as may be presented at the hearing of this motion.

DATED: February 7, 2008

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HAROLD M. JAFFE, ESQ., Attorney for Defendants, JOHN SRAMEK, BERNADETTE SRAMEK, individually and as Trustees of the John S. Sramek, Jr. and Bernadette D. Sramek Revocable Living Trust, and Harold M. Jaffe, In Pro Per